

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

CA #:03 CV 12463 RGS

GREAT NORTHERN INSURANCE CO.
as subrogee of PHYLLIS MACNEIL
1000 Pillsbury Center
Minneapolis, MN 55402
Plaintiff

v.

INTERCITY ALARMS, INC.
20 North Main Street
Yarmouth, MA 02664
Defendant

**PLAINTIFF'S RESPONSE TO DEFENDANT INTERCITY ALARMS, INC.'S CONCISE
STATEMENT OF FACTS**

Pursuant to Local Rule 56.1, Plaintiff, Great Northern Insurance Company, as subrogee of Phyllis MacNeil, by and through its counsel, submits its statement of material facts to which there exists a genuine issue to be tried.

1. Denied. It is admitted that Intercity *initially* installed and designed the alleged system on or about June 30, 1983. The subject alarm system has been upgraded since the original installation.

2. Admitted.

3. Admitted.

4. Admitted.

5. Admitted.

6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

15. Admitted to the extent that there is no evidence of any written contract between Plaintiff's subrogee and Defendant Intercity Alarms, Inc.

16. Admitted.

PLAINTIFF'S CONCISE COUNTERSTATEMENT OF MATERIAL FACTS

1. Plaintiff provided property insurance for Phyllis MacNeil's residence located at 148 Gansett Road, Woods Hole, Massachusetts 02543. [See Complaint, ¶13].

2. As a result of the damages caused by the subject fire, Plaintiff has paid Phyllis MacNeil in excess of \$2,000,000. [Id.].

3. After July 11, 1983, Defendant Intercity Alarms, Inc. performed upgrades, modifications, and subsequent installations of component parts to the alarm system. [See Exhibits A, D, E, F, G, and H].

4. In its business, Defendant Intercity Alarms, Inc. installs alarm systems, monitors those systems, and provides wholesale monitoring services of other alarm companies' customers and is not in the business of providing architectural, engineering, or other professional design services. [Exhibit I, Elliot dep. at p. 12].

Respectfully submitted,

GIARUSSO, NORTON, COOLEY & McGLONE,
P.C.

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